Supreme Court, U.S.
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No. 93-1335

In The

Supreme Court of the United States

October Term, 1993

SECURITY SERVICES, INC.,

Petitioner,

v.

JOHN H. HARLAND COMPANY,

Respondent.

On Petition For Writ Of Certiorari To The Court Of Appeals Of Georgia

RESPONDENT'S REPLY TO PETITION FOR WRIT OF CERTIORARI

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April 7, 1994

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QUESTION PRESENTED

Where a carrier's participation in the Household Goods Carriers' Bureau Mileage Guide Tariff was cancelled, is the carrier's continued use of that tariff a violation of the filed rate doctrine?

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OPINIONS BELOW

The opinions of the State Court of DeKalb County of Georgia, the Court of Appeals of Georgia and the orders denying reconsideration and *certiorari* by the Court of Appeals and the Georgia Supreme Court, respectively, all appear as Appendices in the *Petition for Certiorari.*

STATEMENT OF THE CASE

This case involves an undercharge action filed by Security Services, Inc. (hereinafter "Security") against Respondent, John H. Harland Company ("Harland").

Upon Harland's motion for summary judgment, the State Court of DeKalb County held that since Security did not execute a power of attorney to participate in the Household Goods Carriers' Bureau Mileage Guide, Security's tariff was void as a matter of law relying on the Fifth Circuit's precedent in *Freightcor Services, Inc. v. Vitro Packaging, Inc.*, No. 91-1507 (5th Cir. 1992), *withdrawn and op. replaced on reh'g*, 969 F.2d 1563 (5th Cir. 1992), *cert. denied*, 113 S. Ct. 979 (1993). The Court of Appeals affirmed the trial court's finding that *Freightcor* was on point, but also held that the Commission's regulation met the strictures on retroactive rejection announced by this Court in *I.C.C. v. American Trucking Association*, 467 U.S. 354 (1984). Pet., p. 3. The Georgia Court of Appeals and Georgia Supreme Court subsequently denied further review of the case.

REASONS FOR GRANTING THE WRIT

The Issue Herein Is Identical To The Issue In *KMART*

This Court's recent acceptance of *Security Services, Inc. v. Kmart* presents the same issue and will be dispositive of the case at bar. *Security Services, Inc. v. Kmart*, 996 F.2d 1516 (3rd Cir. 1993), *cert. granted*, 62 U.S.L.W. 3287 (Oct. 18, 1993), *argued*, (Feb. 28, 1994) (No. 93-284). Respondent agrees with Petitioner that this Court should grant *certiorari* in this case, but suggests that the Court stay all briefing until the Court issues its opinion in *Security Services, Inc. v. Kmart*.

CONCLUSION

For the foregoing reasons, the Petition of Security should be granted and a Writ of Certiorari issued to the Court of Appeals of Georgia.

Respectfully submitted,

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